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Government of Kerala
1981

Reg. No. KL/TV(N)/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXVI] Trivandrum, Monday, 22nd June 1981 / 1st Ashadha 1903 [No. 482

SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 5877/LA4A/81. *Dated, Trivandrum, 22nd June* 1981.

The Kerala Forest (Amendment) Bill, 1981 together with the Statement of Objects and Reasons, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. Prasannan,
Secretary,
Legislative Assembly.

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33/2115/MC

Sixth Kerala Legislative Assembly,

Bill No. 27.

THE KERALA FOREST (AMENDMENT) BILL, 1981

A

BILL

further to amend the Kerala Forest Act, 1961.

Preamble.—WHEREAS it is expedient further to amend the Kerala Forest Act, 1961 for the purpose hereinafter appearing;

BE it enacted in the Thirty-second Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Forest (Amendment) Act, 1981.

(2) It shall come into force at once.

2. *Insertion of new Chapter XA.*—In the Kerala Forest Act, 1961 (4 of 1962), after Chapter X, the following Chapter shall be inserted, namely:—

"CHAPTER XA

FOREST DEVELOPMENT TAX

75A. *Levy of forest development tax.*—(1) Notwithstanding anything contained in this Act, in respect of forest produce disposed of by the Government by sale, there shall be levied and collected a tax at the rate of five per cent of the amount of consideration paid therefor.

Explanation.—In this sub-section, the term "sale" shall have the meaning assigned to it in the Kerala General Sales Tax Act, 1963 (15 of 1963).

(2) The tax payable under sub-section (1) in respect of any forest produce shall be collected along with the consideration paid therefor.

(3) The tax levied under sub-section (1) in respect of any forest produce shall be in addition to and not in lieu of any tax payable in respect of such forest produce under the Kerala General Sales Tax Act, 1963 (15 of 1963) or under any other law for the time being in force.

75B. *Establishment of Kerala Forest Development Fund.*—(1) There shall be established for the State a Fund to be called the Kerala Forest Development Fund (hereinafter in this section referred to as the Development Fund).

(2) The proceeds of the tax levied and collected under section 75A shall first be credited to the Consolidated Fund of the State and after deducting the expenses for collection as determined by the Government, the remaining amount shall under appropriation duly made by law in this behalf, be entered into and transferred to the Development fund.

(3) Any amount transferred to the Development Fund shall be charged on the Consolidated Fund of the State.

(4) No sum shall be paid or applied from and out of the Development Fund except as provided in sub-section (5).

(5) The amount standing to the credit of the Development Fund shall be expended in such manner and subject to such conditions as may be prescribed by rules made under this Act for the purposes and to the extent specified below:—

(a) sixty-six and two-thirds per cent, for the planting of soft-wood trees and other species of trees, which form raw material for industries; and

(b) thirty-three and one-third per cent, for forest research.

(6) The Development Fund shall be held and administered on behalf of the Government by an officer not below the rank of Chief Conservator of Forests, subject to such general or special directions as may be given by the Government from time to time.".

STATEMENT OF OBJECTS AND REASONS

Government have been experiencing much difficulties in finding sufficient funds from the normal resources of the State for planting softwood trees and other species of trees required as raw material for industries and for forest research. In order to get over this difficulty it is proposed to levy a tax on the disposal by sale of forest produce at the rate of five per cent of the amount of consideration for the sale. The tax is proposed to be levied in addition to the tax payable on such sales under the Kerala General Sales Tax Act, 1963 or under any other law for the time being in force.

2. It is also proposed to provide for the establishment of a fund called the Kerala Forest Development Fund which could be utilised for plantation of softwood and other species of trees which form raw material for industries and for forest research.

3. The Bill seeks to amend the Kerala Forest Act for the above purposes.

FINANCIAL MEMORANDUM

By the levy and collection of the tax under the new section 75A proposed to be inserted by clause 2 of the Bill, a revenue of Rs. 150 lakhs is anticipated for a year. In connection with the collection of the tax and maintenance of proper accounts, the services of ten Lower Division Clerks will be additionally required. The additional expenditure on this account will be about Rs.74,700 per annum. The balance amount which will accrue to the Development Fund will be utilised for the purposes mentioned in sub-section (5) of the proposed new section 75B. For this purpose no additional expenditure is anticipated.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-section (5) of section 75B under Chapter XA proposed to be inserted in the Kerala Forest Act, 1961 (4 of 1962), by clause 2 of the Bill, seeks to provide that the amount standing to the credit of the Kerala Forest Development Fund shall be expended in such manner and subject to such conditions as may be prescribed by rules made under the Act. Sub-section (6) of the said section seeks to provide that the Development Fund shall be held and administered on behalf of the Government by an officer not below the rank of Chief Conservator of Forests subject to such general or special directions as may be given by the Government from time to time.

2. The matters in respect of which rules may be made or directions may be issued are matters of an administrative or routine nature. The delegation of legislative power is thus of a normal character.

ARYADAN MUHAMED.

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GOVERNMENT OF KERALA

Law (Legislation-A) Department

NOTIFICATION

No. 9199/Leg. (A)1/80/Law. *Dated, Trivandrum, 22nd June,* 1981/ *1st Ashadha,* 1903.

The following Ordinance promulgated by the Governor on the 21st day of June, 1981 is hereby published for general information.

By order of the Governor,

K. Viswanathan Nair,
Special Secretary (Law).

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33/2117/MC.

ORDINANCE No. 5 OF 1981

THE KERALA LAND REFORMS (AMENDMENT) ORDINANCE, 1981

Promulgated by the Governor of Kerala in the Thirty-second Year of the Republic of India.

AN

ORDINANCE

further to amend the Kerala Land Reforms Act, 1963.

Preamble.—WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for her to take immediate action;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Land Reforms (Amendment) Ordinance, 1981.

(2) Sections 3 to 6 (both inclusive) shall be deemed to have come into force on the 1st day of January, 1970 and the remaining provisions of this Ordinance shall come into force at once.

2. *Act* 1 *of* 1964 *to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Land Reforms Act, 1963 (1 of 1964) (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 to 7.

3. *Insertion of new section* 72QQ.—After section 72Q of the principal Act, the following section shall be inserted, namely:—

"72QQ. *Cultivating tenant not liable to pay rent if resumption application is rejected.*—Notwithstanding anything contained in any law for the time being in force, or in any contract, custom or usage, or in any judgment, decree or order of any court or Land Tribunal, in the case of a holding or part of a holding in respect of which an application for resumption under the provisions of this Act is rejected, the cultivating tenant shall not be liable to pay any rent for such holding or part of the holding, as the case may be, with effect on and from the date notified under sub-section (1) of section 72.",

4. *Amendment of section* 72S.—Section 72S of the principal Act shall be re-numbered as sub-section (1) of that section and, after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) In the case of a holding or part of a holding in respect of which an application for resumption under the provisions of this Act is rejected, the cultivating tenant shall be liable to pay the basic tax and other taxes and cesses in respect of such holding or part of the holding, as the case may be, with effect on and from the date notified under sub-section (1) of section 72.".

5. *Amendment of section* 84.—In section 84 of the principal Act, after the proviso to sub-section (1A), the following *Explanation* shall be inserted, namely:—

"*Explanation.*—For the purposes of clause (b), a land shall be deemed to have been assigned on registry if the purchase price payable for the assignment of that land or the first instalment thereof has been deposited as required by the rules made under this Act.".

6. *Amendment of section* 85.—In section 85 of the principal Act, after sub-section (6), the following sub-section shall be inserted, namely:—

"(6A) For the removal of doubts it is hereby declared that proceedings for the determination of the extent and other particulars of any land, the ownership or possession or both of which is or are to be surrendered by an adult unmarried person or a family, shall not abate on the death of that adult unmarried person or, as the case may be, the sole surviving member of that family where it consists of only one person, or the member of that family who filed the statement under this section or under section 85A in the case of any other family, but shall be continued against the legal representatives of such adult unmarried person or sole surviving member or the remaining member or members of such family, as the case may be, and such legal representatives or remaining member or members shall be bound to surrender the same extent of land as such adult unmarried person or sole surviving member or such family would have been liable to surrender, if such adult unmarried person or sole surviving member or the person who filed such statement, as the case may be, were alive on the date of determination of the extent and other particulars of the land.".

7. *Amendment of section* 109A.—In sub-section (1) of section 109A of the principal Act,—

(a) in the first proviso, for the words "five hundred rupees" the words "one thousand five hundred rupees" shall be substituted;

(b) in the second proviso, in clause (a), for the words "two thousand rupees", the words "five thousand rupees" shall be substituted.

8. *Transitory provisions.*—Notwithstanding anything contained in any judgment, decree or order of any court or other authority, where any proceeding under the principal Act for the determination of the extent

and other particulars of any land, the ownership or possession or both of which is or are to be surrendered by an adult unmarried person or a family, has been discontinued on the ground that such adult unmarried person, or the sole surviving member of the family in the case of a family having only one member, or the person who filed the statement under section 85 or under section 85A of the principal Act in the case of any other family, has died before such determination, the Land Board or the Taluk Land Board, as the case may be, shall, within a period of one year from the date of publication of this Ordinance in the Gazette, restore to file such proceeding and continue the same impleading the legal representatives of such adult unmarried person or sole surviving member or the remaining member or members of that family, as the case may be, and such legal representatives or, as the case may be, the remaining member or members shall be bound to surrender the same extent of land as such adult unmarried person or sole surviving member or the family, as the case may be, would have been liable to surrender if such adult unmarried person or sole surviving member or the person who filed such statement, as the case may be, were alive on the date of determination of the extent and other particulars of the land:

Provided that nothing contained in this section shall be deemed to affect a *bonafide* purchaser for consideration of any land from such legal representatives or the remaining member or members of such family.

JOTHI VENCATCHELLUM,
GOVERNOR

Government of Kerala
1981

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GOVERNMENT OF KERALA

Planning & Economic Affairs Department

NOTIFICATION

No. 5581/B1/81/Plg. *Dated, Trivandrum, 16th June,* 1981.

The select list of Officers for promotion to the category of Deputy Director in the Directorate of Economics & Statistics published in the Kerala Gazette No. 22 dated 30-5-1978 as Notification I-No. 5629/B1/77/Plg. dated 22-5-1978 is revised as follows:—

1. Shri P. S. Gopinathan Nair
2. Shri P. T. Joseph
3. Shri C. Thomas Varghese
4. Shri N. Gopalakrishnan
5. Shri G. Ramachandran Nair
6. Dr. T. Edwin
7. Shri S. Sthanukrishna Iyer
8. Smt. P. L. Sreedevi Amma
9. Shri K. Bhaskara Menon
10. Shri G. Somasekharan Nair
11. Smt. S. Ratnabai Ammal
12. Smt. T. Saraswathy Amma.

P. Karunakaran Nair,
Additional Secretary, Planning & Economic Affairs Department & Convener D.P.C. No. I.

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GOVERNMENT OF KERALA

Agriculture (Forest Special) Department

NOTIFICATION

No. 67571/FS2/79/AD. *Dated, Trivandrum, 17th June,* 1981.

S. R. O. No. 724/81.—In exercise of the powers conferred by section 17 of Kerala Private Forests (Vesting and Assignment) Act, 1971 (26 of 1971), the Government of Kerala hereby make the following rules further to amend the Kerala Private Forests (Vesting and Assignment) Rules, 1974, namely:—

RULES

1. *Short title.*—These rules may be called the Kerala Private Forests (Vesting and Assignment) Amendment Rules, 1981.

2. *Amendment to the rules.*—In the Kerala Private Forests (Vesting and Assignment) Rules, 1974—

(1) Rule 21 shall be re-numbered as sub-rule (1) of that rule and after sub-rule (1) as so re-numbered, the following sub-rules shall be inserted, namely:—

"(2) The order of assignment on lease shall be issued by the Tahsildar in Form No. 5A.

(3) The applicant in whose favour an order of assignment is issued under sub-rule (2) shall execute a lease deed in Form No. 5B and on execution of such a lease deed, the land so assigned shall be placed in possession of the lessee subject to such terms and conditions as stipulated in the lease deed."

33/2121/MC.

(2) after Form No. 5 the following Forms shall be inserted, namely:—

"FORM No. 5A

ORDER OF ASSIGNMENT ON LEASE

[*See* rule 21 (2)]

In pursuance of rule 21 of the Kerala Private Forests, (Vesting and assignment) Rules, 1974, an extent of ....hectares of vested forest lands comprised in R. S. No.............Range of Special Division................ has been ordered to be leased out to....................for..........

The lease shall be subject to execution of lease deed in Form 5B.

The lease shall be for..........years subject to renewal of terms and conditions to be mutually agreed upon.

A lease rent of Rs. ....per hectare per annum will be paid by the......................

Date. *Tahsildar*

Place

FORM 5B

LEASE DEED

[*See* rule 21 (3)]

This lease deed is executed this the day of..............one thousand nine hundred and eighty-one between the Governor of Kerala (hereinafter called "the Lessor") of the one part and ....(hereinafter called "the lessee") of the other part.

Whereas at the request of the lessee, the lesser has in G. O. ....date ....(hereinafter called the said orders which shall form part of the deed as if incorporated herein) agreed to lease an extent of.......... hectares of vested forest land in..........in............. Special Division more particularly mentioned and described in the schedule hereunder written and in the plan hereto attached for a a period of..............years for the purpose of..................subject to the terms and conditions hereinafter contained.

Now these presents witness and it is hereby mutually agreed as follows:—

1. In consideration of the rent and other payments herein reserved and of the covenants on the part of the lessee hereinafter contained the lessor doth

hereby demise unto the lessee an extent of..........hectares of vested forest land more particularly mentioned and described in the schedule hereunder written and in the plan hereto attached to hold the same for the purpose of.....................

2. The lease shall be for a period of............years commencing from..............the date on which the possession of land was given to the lessee subjects to renewal on terms and conditions to be mutually agreed upon.

3. The ownership of the demised premises shall continue to vest in the Government.

4. The lessee shall during the continuance of the lease pay a rent of Rs.........(Rupees.......) per hectare per annum before the end of March every year.

5. The lessor reserves unto himself the right to revise the annual rent and refix it on the expiry of every five years from the date of........and the lessee shall be bound to pay the revised rate of rent as may be fixed by the lessor.

6. The lessee shall not assign or sublet his right under this deed in respect of the lease hold or any portion thereof or otherwise deal with the leasehold without the previous consent in writing of the lessor.

7. In case the rent herein reserved or any part hereof remains in arrears or there is breach of all or any of the terms and conditions herein contained this lease shall immediately be terminated and it shall then be competent for the lessor to enter on the demised premises and evict the lessee under the provisions of the Kerala Land Conservancy Act, 1957, as if these presents had not been executed.

8. The lessee shall at the expiration of the period for which this lease has been granted or sooner determination thereof under these presents peaceably and quietly surrender to the lessor the leasehold after removing the building or buildings put up by the lessee and all other improvments effected by the lessee or the lessor may take them over at a valuation to be made by the Public Works Departmental authorities of the State Government which shall be final and binding on the lessee.

9. The lessor shall have the right to resume the land if the lessee does not use the land for the purpose for which it was leased out within the period of two years or such further extended period as may be permitted by the lessor to be reckoned from the date. The lessor shall have the right to use the road within the leased area for the purpose of inspection in that area.

10. The lessee shall not without the previous consent in writing of the lessor, use or permit the use of properties hereby demised or any portion of the same for any purpose other than that for which the same was granted. In case, anything contrary to this condition is noticed, the lease will be canccelled.

11. The lessee shall pay all rates and taxes that may be imposed or levied by any authority whatsoever in respect of the lease hold. The lessee shall allow any officer of the Forest Department not below the rank of a Forester whenever required to enter upon the land for the purpose of verifying whether the matters provided for in the lease deed have been complied with.

12. Should the lessee violate any of the terms and conditions of this lease, or in any way act prejudicially to the interests of the lessor, the lease will be cancelled and all amounts due to the lessor by way of rent or by way of damages or otherwise shall be paid by the lessee.

13. The lessee shall be liable for all or any injury or damage done to the said land and other Government property thereon and the lessor shall have the right to realise the loss if any on account of the said damage from the lessee.

14. The lessor reserves unto himself the right to all trees and their branches and roots which exist at the time of lease as well as those which may grow subsequently on the land leased out and the lessor shall be at liberty to cut or dig out any such trees or their roots and branches and remove them from the land in question and dispose of them at their discretion. The lessee shall not be entitled to cut or remove any tree from the demised premises without the permission of the lessor in writing.

15. The lessor hereby covenants with the lessee that the lessee paying the rent hereby reserved and performing and observing all the terms, conditions and covenants herein contained, may hold and enjoy the said lands during the said period without any lawful interruption by the lessor.

In witness whereof Sri..................Tahsildar, L.A................ Taluk for and on behalf of the Governor of Kerala and Sri............... ....(the lessee)..................have hereunto set their hands and the seal has hereto been affixed on the day, month and year first above written.

SCHEDULE

(Here enter details of the area)

Signed by Shri.............................
the lessee in the presence of witnesses.

1. ....

2. ....

Signed by Sri...........................
for and on behalf of the lessor.

In the presence of witnesses:

1. ....

2. ...."

By order of the Governor,

K. L. N. Rao,

Special Secretary to Government.

Explanatory Note

(This does not form part of the notification but is intended to indicate its general purport).

Rule 6 of the Kerala Private Forest (Vesting and Assignment) Rules, 1974 provides that land may be assigned either on lease or on registry as may be determined by the Government in each case to individuals for personal cultivation, Rule 21 of the said rules specifies that the order of assignment on registry should be in Form No. 5. But no forms have been prescribed for issuing an order of assignment on lease and for the lease deed to be executed. It is therefore necessary to prescribe the forms for these purposes. This notification is intended to achieve the above object.

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GOVERNMENT OF KERALA

Revenue (R) Department

NOTIFICATION

No. 36552/R2/81/RD. *Dated, Trivandrum, 19th June,* 1981.

S.R.O. No. 725/81.—In exercise of the powers conferred by section 99A of the Kerala Land Reforms Act, 1963 (1 of 1964), the Government of Kerala hereby make the following amendment to their notification No. 9589/N2/70/LRD dated the 11th May, 1970 published as S.R.O. No. 193/70 in the Kerala Gazette No. 20 dated the 19th May, 1970, as subsequently amended, namely:—

Amendment

In the Schedule to the said notification, for the entry in column (3) against serial number 1, the following entry shall be substituted, namely:—

"Shri V. Kumara Pillai, Deputy Collector".

By order of the Governor,

P. V. Jose,

Deputy Secretary to Government.

33/2122/MC.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport).

As per G.O. (Rt.) No. 635/81/RD dated 18-4-1981, Shri V. Kumara Pillai, Deputy Collector who was working as Special Officer (L.A.) was posted as Appellate Authority (L.R.) Alleppey and he took charge of the post on the Afternoon of 22-5-1981. The notification is intended to give effect to the above orders.

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